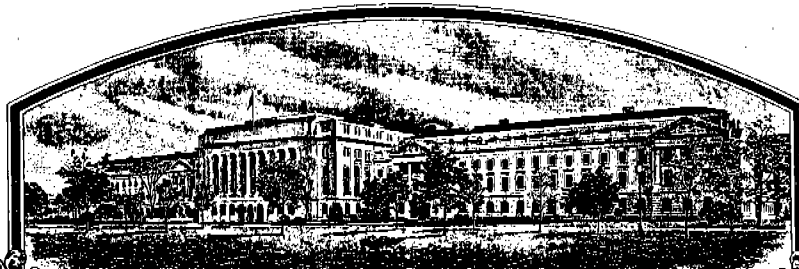


No.

7500047



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Waller Flowerseed Company

Whereas, THERE HAS BEEN PRESENTED TO THE
Secretary of Agriculture

AN APPLICATION REQUESTING A CERTIFICATE OF PROTECTION FOR AN ALLEGED NOVEL VARIETY OF SEXUALLY REPRODUCED PLANT, THE NAME AND DESCRIPTION OF WHICH ARE CONTAINED IN THE APPLICATION AND EXHIBITS, A COPY OF WHICH IS HEREUNTO ANNEXED AND MADE A PART HEREOF, AND THE VARIOUS REQUIREMENTS OF LAW IN SUCH CASES MADE AND PROVIDED HAVE BEEN COMPLIED WITH, AND THE TITLE THERETO IS, FROM THE RECORDS OF THE PLANT VARIETY PROTECTION OFFICE, IN THE APPLICANT(S) INDICATED IN THE SAID COPY, AND WHEREAS, UPON DUE EXAMINATION MADE, THE SAID APPLICANT(S) IS (ARE) ADJUDGED TO BE ENTITLED TO A CERTIFICATE OF PLANT VARIETY PROTECTION UNDER THE LAW.

NOW, THEREFORE, THIS CERTIFICATE OF PLANT VARIETY PROTECTION IS TO GRANT UNTO THE SAID APPLICANT(S) AND THE SUCCESSORS, HEIRS OR ASSIGNS OF THE SAID APPLICANT(S) FOR THE TERM OF *seventeen* YEARS FROM THE DATE OF THIS GRANT, SUBJECT TO THE PAYMENT OF THE REQUIRED FEES AND PERIODIC REPLENISHMENT OF VIABLE BASIC SEED OF THE VARIETY IN A PUBLIC REPOSITORY AS PROVIDED BY LAW, THE RIGHT TO EXCLUDE OTHERS FROM SELLING THE VARIETY, OR OFFERING IT FOR SALE, OR REPRODUCING IT, OR IMPORTING IT, OR EXPORTING IT, OR USING IT IN PRODUCING A HYBRID OR DIFFERENT VARIETY THEREFROM, TO THE EXTENT PROVIDED BY THE PLANT VARIETY PROTECTION ACT (STAT. 1542, AS AMENDED, 7 U.S.C. 2321 ET SEQ.)

NASTURTIIUM

'Whirlybird Cherry Rose'

In Testimony Whereof, I have hereunto set
my hand and caused the seal of the Plant
Variety Protection Office to be affixed
at the City of Washington
this seventh day of September in
the year of our Lord one thousand nine
hundred and seventy-six

Attest:

L. D. Rollin
Commissioner
Plant Variety Protection Office
Grain Division
Agricultural Marketing Service

Earl L. Butz


Secretary of Agriculture

Transfer of Plant Variety Protection Act Rights

I, Andrew Blodgett am the President of Waller Flowerseed Company, which has its principal place of business at 4th and Obispo Streets, Guadalupe, California 93434 (hereinafter referred to as "Waller"). Waller is the owner of the Plant Variety Protection applications (pending, issued and abandoned) listed on Exhibit A attached hereto (hereinafter referred to as the "Applications").

For good and valuable consideration the receipt of which is hereby acknowledged, Waller hereby transfers all of its right, title and interest in and to the Applications and all rights relating thereto under the Plant Variety Protection Act to PanAmerican Seed Company, a division of Ball Horticultural Company (which is an Illinois corporation), whose principal place of business is at 622 Town Road, West Chicago, Illinois.

Dated: July 19, 2001



Andrew Blodgett
President
Waller Flowerseed Company

7500047

ATTACHMENT EXHIBIT 13

13A A mutant plant found in Nasturtium Globe Orange being spurless. No (nectary). Intercrossed with all existing colors in Nasturtium using varieties Gem, Gleam and Globe. Grew segregating populations and selected for the spurless factor in a complete range of colors plus earliness. Unless exposed to chance crossing with spurred varieties there is no essential variation in the various color lines except possibly a slight variation in earliness of the various colors.

13B No difference from Globe or Gem types until flowering stage when flowers have no nectary. Having no nectary the flower is located upright on the flowering stem which contributes to the flowers being carried above the foliage and facing upwards.

Is in all respects like Globe or Gem varieties except for the spurlessness and upward facing blooms plus earliness.

13D ~~Whirlybird Cherry Rose most closely resembles Jewel Cherry Rose for color and Whirlybird Scarlet for plant type as well as the Globe types differing from existing Globe or Gem varieties by being spurless and flowers face upward with a better degree of earliness.~~

Seeds and photos later.

13E The applicant, Waller Flowerseed Company, is the employer of the breeders developing this novelty.

00002

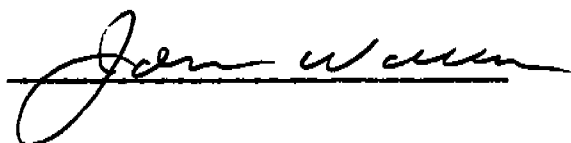
Application No. 7500047

Nasturtium

'Whirlybird Cherry Rose'

13D. Exhibit D:

'Whirlybird Cherry Rose' most closely resembles 'Whirlybird Scarlet' for plant habit and spurless flowers but differs by being a cerise rose color.

A handwritten signature in cursive script, appearing to read "John Waller", is written over a horizontal line.

00005

APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE

INSTRUCTIONS: See Reverse.

1. VARIETY NAME OR TEMPORARY DESIGNATION	2. KIND NAME	FOR OFFICIAL USE ONLY	
Whirlybird Cherry Rose	Nasturtium	PV NUMBER	7500047
3. GENUS AND SPECIES NAME	4. FAMILY NAME (Botanical)	FILING DATE	TIME
Tropaeolum Majus	Tropaeolacea	1.21.75	3 P.M.
5. DATE OF DETERMINATION		FEE RECEIVED	BALANCE DUE
July 1960		\$ 250	\$ -
		\$ 250	\$ -
		\$ 250	\$ -
6. NAME OF APPLICANT(S)	7. ADDRESS (Street and No. or R.F.D. No., City, State, and ZIP Code)	8. TELEPHONE AREA CODE AND NUMBER	
Waller Flowerseed Co.	Guadalupe, California 93434 P. O. Box 935	A.C. 805 WA 5-5377	
9. IF THE NAMED APPLICANT IS NOT A PERSON, FORM OF ORGANIZATION: (Corporation, partnership, association, etc.)	10. STATE OF INCORPORATION	11. DATE OF INCORPORATION	
Corporation	California	6-4-31	

12. Name and mailing address of applicant representative(s), if any, to serve in this application and receive all papers:

John Waller
c/o Waller Flowerseed Co.
P. O. Box 935
Guadalupe, California 93434

13. CHECK BOX BELOW FOR EACH ATTACHMENT SUBMITTED:

- ☒ 13A. Exhibit A, Origin and Breeding History of the Variety (See Section 52 of the Plant Variety Protection Act.)
- ☒ 13B. Exhibit B, Botanical Description of the Variety
- ☒ 13C. Exhibit C, Objective Description of the Variety
- ☒ 13D. Exhibit D, Data Indicative of Novelty
- ☒ 13E. Exhibit E, Statement of the Basis of Applicant's Ownership

14A. Does the applicant(s) specify that seed of this variety be sold by variety name only as a class of certified seed? (See Section 83(a). (If "Yes," answer 14B and 14C below.) ☐ YES ☒ NO14B. Does the applicant(s) specify that this variety be limited as to number of generations? ☐ YES ☐ NO14C. If "Yes," to 14B, how many generations of production beyond breeder seed? ☐ FOUNDATION ☐ REGISTERED ☐ CERTIFIED

The applicant declares that a viable sample of basic seed of this variety will be deposited upon request before issuance of a certificate and will be replenished periodically in accordance with such regulations as may be applicable.

The undersigned applicant(s) of this sexually-reproduced novel plant variety believes that the variety is distinct, uniform, and stable as required in Section 41 and is entitled to protection under the provisions of Section 42 of the Plant Variety Protection Act.

Applicant is informed that false representation herein can jeopardize protection and result in penalties.

Jan. 10, 1975

(DATE)

(DATE)



(SIGNATURE OF APPLICANT)

John Waller, President 00001
Waller Flowerseed Co.

(SIGNATURE OF APPLICANT)

FORM GR-470-27
(5-15-73)UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
GRAIN DIVISION
HYATTSVILLE, MARYLAND 20782EXHIBIT C
(Nasturtium)OBJECTIVE DESCRIPTION OF VARIETY
NASTURTIIUM (TROPAEOLUM SPP.)

NAME OF APPLICANT(S) Waller Flowerseed Co.	FOR OFFICIAL USE ONLY
ADDRESS (Street and No. or R.F.D. No., City, State, and ZIP Code) P. O. Box 935 Guadalupe, Calif. 93434	PVPO NUMBER 7500047
	VARIETY NAME OR TEMPORARY DESIGNATION Whirlybird Cherry Rose

Place the appropriate number that describes the varietal character of this variety in the boxes below.
Place a zero in first box (e.g. or) when number is either 99 or less or 9 or less.

1. SPECIES:

1 = MAJUS 2 = PELTOPHORUM (Lobbianum) 3 = PEREGRINUM 4 = MINUS
5 = OTHER (Specify) _____

1 = DIPLOID 2 = TETRAPLOID 3 = OTHER (Specify) _____

2. PLANT:

1 = TALL/CLIMBING > 60 CM. 2 = BUSH ≤ 60 CM.

CM. HIGH

DAYS FROM EMERGENCE TO ANTHESIS Bloom

3. STEM (Mature):

1 = SUCCULENT, THICK 2 = NOT SUCCULENT, RIGID 3 = WOODY

4. LEAF:

Shape: 1 = SCALLOPED 2 = DIVIDED OR LOBED 3 = ENTIRE

CM. ACROSS (Leaf size)

CM. PETIOLE LENGTH Leaf Stem

Surface: 1 = NOT GLAUCOUS 2 = GLAUCOUS

Order when crushed: 1 = MILD 2 = PUNGENT

Color: 1 = LIGHT GREEN (Whirlybird) 2 = MEDIUM GREEN 3 = DARK GREEN (Glorius Gleam) 4 = VARIEGATED

5. FLOWER:

Type: 1 = SINGLE (< 5 petals) 2 = SEMIDouble (8 - 15 PETALS)
3 = DOUBLE (> 15 petals) 4 = VARIOUS TYPES ON SAME PLANT

CM. ACROSS (Flower size)

CM. PEDUNCLE LENGTH Flower Stalk

Petal Shape: 1 = POINTED 2 = NOTCHED 3 = ENTIRE Rounded

Petal Margin: 1 = STRAIGHT 2 = WAVY

Spur: 1 = ABSENT 2 = PRESENT

Spur: 1 = STRAIGHT 2 = CURVED

Pistil: 1 = ABSENT 2 = PRESENT

Pollen: 1 = ABSENT 2 = PRESENT

00003

3 of 5

5. FLOWER (Continued) :

1

Flower Color:

1 = UNIFORM

2 = VARIABLE ON SAME PLANT

9

1 = WHITE

2 = YELLOW

3 = ORANGE

4 = RED-ORANGE

5 = RED

6 = SCARLET

7 = MAROON

8 = VARICOLORED (Describe)

9 Cerise

1

Dark Spot:

1 = ABSENT

2 = PRESENT

6. DISEASE RESISTANT: (0 = Not Tested; 1 = Susceptible; 2 = Resistant)

0

LEAF SPOT

0

SPOTTED WILT

0

MOSAIC

0

OTHER (Specify)

7. INSECT RESISTANT: (0 = Not Tested; 1 = Susceptible; 2 = Resistant)

0

APHIDS

OTHER (Specify)

8. INDICATE A VARIETY THAT MOST CLOSELY RESEMBLES THAT SUBMITTED: Whirlybird Scarlet

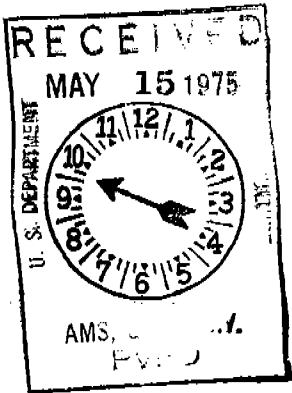
CHARACTER	VARIETY	CHARACTER	VARIETY
Plant type Dwarf	Bush Whirlybird Scarlet	Flower type Semi Double	Whirlybird Scarlet
Plant size 30 CM	High Whirlybird Scarlet	Flower size 8 CM	Whirlybird Scarlet
Leaf shape Round	Whirlybird Scarlet	Petal shape Roundish	Whirlybird Scarlet
Leaf size 10 CM	Whirlybird Scarlet	Petal color Med. Green	Whirlybird Scarlet
Petiole length 12 CM	Whirlybird Scarlet	Spur shape/length Normal 5-6 CM	Whirlybird Scarlet

REFERENCES

Bailey, L. H. 1949. Manual of Cultivated Plants. MacMillan, New York, N.Y.

USDA Year Book Separate, 1937. Improvement of Flowers by Breeding.

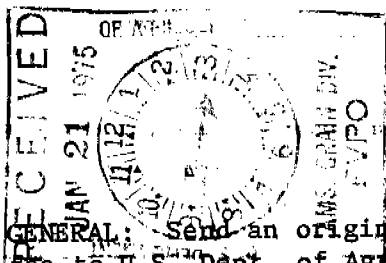
COMMENTS:



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INSTRUCTIONS

GENERAL: Send an original copy of the application, exhibits and \$250.00 fee to U.S. Dept. of Agriculture, Agricultural Marketing Service, Grain Division, 6525 Belcrest Road, Hyattsville, Maryland 20782. (See Section 180.175 of the regulations and rules of practice.) Retain one copy for your files. All items on the face of the form are self-explanatory unless noted below.

ITEM

- 5 Insert the date the applicant determined that he had a new variety based on the definition in Section 41 (a) of the Act and decision is made to increase the seed.
- 13a First, give the genealogy, including public and commercial varieties, lines, or clones used, and the breeding method. Second, give the details of subsequent stages of selection and multiplication. Third, indicate the type and frequency of variants during reproduction and multiplication and state how these variants may be identified. Fourth, provide evidence on stability.
- 13b First, give any special characteristics of the seed and of the plant as it passes through the seedling stage, flowering stage and the fruiting stage. Second, describe the mature plant and compare it with a similar commercial variety grown under the same conditions, and indicate the differences.
- 13c A supplemental form will be furnished by the PVPO to describe in detail a variety for each kind of seed.
- 13d Provide complete data indicative of novelty. Seed and plant specimens or photographs of seed and plant comparisons clearly indicating novelty may be submitted. Seeds submitted may be sterile.
- 13e Indicate whether applicant is the actual breeder, the employer of the breeder, the owner through purchase or inheritance, etc.